

13th November 1922]

[Mr. A. R. Knapp]

Grant XXXIII—cont.

have put out the fire it will be absolutely essential to try and discover the causes of it and the way in which to prevent further conflagrations. My hon. friend, Mr. Ramachandra Rao, is inclined to think that some measure of conciliation is possible and he quoted a precedent from what my predecessor did in 1879. Sir, it is not possible to put a bangle on the hand of a man who is waiting for you with a rifle behind a rock; that is a duty which I would gladly delegate to any other Member of this Council.

"All I need add is, to repeat that we have every intention to make the fullest possible investigation as soon as the conditions will allow us to do so. Mr. Huggins has recently joined as Agency Commissioner (hitherto we had only an acting man). I hope to be able to see him next week, and I shall not lose the opportunity of ascertaining from him as definitely as possible what the causes of the rebellion are, as far as they are ascertainable, and I shall impress upon him the necessity of losing no opportunity of discovering what grievances there may be. I think it is most likely that there may be grievances which have to be redressed. I can assure the House that any information that we may get sooner or later on the subject will be fully laid before the House for information."

The demand was then put to the House and carried and the grant made.

VII

THE PRINCE OF ARCOT ENDOWMENTS BILL, 1922.

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—"Mr. President, under Standing Order No. 43, I beg to present the report of the Select Committee on the Prince of Arcot Endowments Bill; and under the Standing Order, also, I shall confine myself to a very brief statement of some additional facts. Hon. Members of this House who have perused the report will find that in three places there has been a departure made from the scheme of the original Bill. One matter is referred to in paragraph 5 of the report. On investigation and by taking evidence in the matter it was found by the Select Committee that there are now a number of endowments which were not in the management of the Prince of Arcot. It was therefore possible to eliminate them from the scope and orbit of the Bill. Two other alterations have been made in the direction of enlarging the privileges of the members of the public and it may be taken that they are contained in paragraphs 6 and 12 of the report. Consistently with the position and rights of the Prince of Arcot, attempts have been made to increase the control of the public over these. With these observations I beg to present the report."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"I second the motion."

The motion to present the report of the Select Committee was then put to the House and agreed to.

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—"Mr. President, before the hon. Mr. Krishna Rao moves his amendment, may I draw the attention of the House to a misprint in clause 1 of the Bill? In line 12, '1921' should be '1922'. When the Bill was drafted it was expected to be passed in 1921 and I trust I have the necessary permission to alter this misprint."

The House having assented to '1922', being substituted for '1921', the Council then took up the Bill clause after clause.

[13th November 1922]

Clause 1.

Clause 1 was put, passed and added to the Bill.

Clause 2.

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, I beg to move that the following proviso be added to clause 2 of the Bill :

'provided that it shall not apply to the hereditary servants of the endowments or institutions'.

" And I suggest that to make matters clear it is desirable that this should be added to the clause. To suggest reasons for this amendment I need not go further than to refer to the report of the Select Committee, paragraph 9. It states that certain hereditary servants of the endowments put in a petition before them, but that their claims if any were unaffected by the Bill. A perusal of all the clauses of the Bill will show that there has been no exception created in the case of any of the servants of those endowments or institutions and I therefore urge for the attention of the House the necessity for incorporating this proviso in the Act itself. In fact, it is admitted by the Select Committee that the Bill does not affect the rights of hereditary men. It is only to make matters quite clear that I move this amendment and I trust there will be no objection."

Khan Bahadur MUHAMMAD SADULLA BADSHA SAHIB :—" Mr. President, I beg to second this amendment. The subject matter of this amendment has already been considered by the Select Committee in paragraph 9 of their report. When certain hereditary servants of the endowments put in a petition before the Select Committee, it was considered that their claims were not affected by the Bill. But as people still seem to entertain some doubt on the matter, it is better to have it clearly expressed that the Act shall not apply to the hereditary servants of the endowments or institutions."

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—" The only objection, Sir, to the amendment being inserted is that it is quite unnecessary. The Bill itself relates to the better management of the charitable and religious endowments under the control of the Prince of Arcot in the Presidency of Madras, and not to the disciplinary jurisdiction over the servants employed in those endowments. This matter was pressed before the Select Committee and it was then pointed out most distinctly that there was not a word or phrase in the Bill which would create any ambiguity in the matter, and seeing that the proviso is unnecessary, I oppose the amendment."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*) :—" Mr. President, I quite see that the hon. Member who has moved the amendment is particular to guard against any encroachment on the rights of hereditary servants, but at the same time he will bear in mind, I have no doubt, that neither under section 92 of the Civil Procedure Code, nor under the analogous provision of the Religious Endowments Act, are private rights as such interfered with in these scheme matters or scheme suits. For instance, it has been held by the courts that suits for the vindication of private rights, such as the rights vested in hereditary servants of these endowments, could not be affected by the ordinary scheme proceedings. Not only on that account but also on account of the fact, that there is nothing purported to be done, or that can

13th November 1922] [The Advocate-General]

Clause 2—cont.

ostensibly be done under colour of this enactment to affect or in any way interfere with the rights of these hereditary servants, was it considered unnecessary to insert anything in the Bill which would really be of a supererogatory character. I submit with some confidence, Mr. President, that there is not a single phrase in this Bill which can be taken to have the effect, remotely even, of interfering with the rights of hereditary servants."

Khan Bahadur MUHAMMAD USMAN SAHIB Bahadur:—"Mr. President, I am opposing the amendment, because it is superfluous. There is no hereditary servant belonging to the mosques. There was one who was dismissed by the Prince of Arcot and he appealed against that dismissal to the High Court both in the original side and in the appellate side where the decision of the Prince of Arcot was upheld. Under these circumstances, the amendment is absolutely superfluous and will serve no useful purpose."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—"I desire to guard against members expressing any view or opinion that there are no hereditary servants at present. Now, as the case stands at present, in the case of certain persons who arrogated this right to themselves, their rights have been regulated by the Madras High Court to which advertence has been made. But this House cannot at the present juncture judge of the existence or non-existence of hereditary servants. All that I can say is that if there are any hereditary servants, their rights are unaffected."

SAIYID MUHAMMAD PADSHA SAHIB Bahadur:—"Sir, I rise to oppose this amendment not because I think that there are no hereditary servants at all but because to my mind the investigation as to whether there are or are not men who can come under the class of hereditary servants is irrelevant to the matter under consideration. All that needs to be considered is whether the question of the rights of hereditary servants can be considered at all when we are dealing with this Bill. I think, Sir, that in the whole of this Bill there is not one solitary reference to the rights of hereditary servants. While it is not attempted to confer any additional rights on those people who might be hereditary servants attached to one particular institution, there is also no attempt made to deprive them of any rights which they may naturally possess under the ordinary law of the land. Therefore, Sir, I am of opinion that it is not at all necessary to make any such provision with regard to the rights of these hereditary servants."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, the first objection urged against the amendment is that it is unnecessary and that therefore no provision need be made. I believe that it is not possible for us to anticipate what interpretation might be put upon the absence of this provision if a contest should really arise in future. It is not possible for us to exactly consider the possible interpretation that may be put even on the discussions in this House, or on the observations made in the Select Committee while dealing with this question. If no objection has been urged to the substance of this amendment, I only wish this House to consider whether on the mere ground that such a provision has not been thought necessary either in the Select Committee, or in the House to-day, they will not make matters quite clear by excluding these hereditary servants from the operation of this Bill. I agree with the hon. the Advocate-General who has stated that it is not necessary for this House to consider whether or not there are any hereditary

[Mr. A. S. Krishna Rao Pantulu] [13th November 1922]

Clause 2—cont.

servants. That is beside the question. The objection urged by the hon. the Advocate-General also was that section 92 of the Civil Procedure Code and the corresponding section of the Religious Endowments Act did not affect the rights of hereditary servants and that therefore there was no necessity to make any provision for them so far as this Bill was concerned. May I point out that according to the Bill which is now before this House—I do not know how it will be in future—clause 5 expressly provides—

‘No suit claiming any of the reliefs specified in the Religious Endowments Act, XX of 1863, or in sub-section (1) of section 92 of the Code of Civil Procedure, 1908, shall be instituted or maintained or continued in respect of the aforesaid charitable and religious trusts.’

If, notwithstanding the amendment moved in regard to this clause, the House should consider it necessary to have that provision, there is every possibility of complicated questions arising later on while dealing with that question. If suits under the Civil Procedure Code or the Religious Endowments Act are not to be instituted in respect of all those matters, we cannot be sure that the rights of the hereditary servants are not affected by those provisions. I therefore again urge for the consideration of the House the necessity for endeavouring to make matters clear. We cannot after all be sure of the correctness of our interpretation of law. Everyday we know of decisions being altered. Therefore, to be doubly sure, I think it is better to clear up matters now only.”

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—“Mr. President, if I thought that there was any reasonable doubt or uncertainty regarding this matter I would have had no hesitation in accepting it, but I think the argument of the hon. mover of the amendment itself supplies the solution. Clause 5, even if it is carried, says this:—that no suits under those two provisions can be brought forward. All that I have ventured to bring forward before you, Mr. President, is this: that neither under section 92, nor under the Religious Endowments Act at present is any man debarred from contesting or litigating any private right. Therefore the removal of that provision will not affect matters in any manner, and that is why I submit that it is absolutely unnecessary to pass this amendment.”

The amendment was put and lost.

Clause 2 was put, passed and added to the Bill.

Clause 3.

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—“Mr. President, before the clause is discussed further, it has been suggested that a verbal amendment might be made. In clause 3, the House will notice we have the words ‘present Prince of Arcot and his successors in title’. It has been suggested that instead of that it would be more elegant and more in consonance with the scheme in clause 4 also to say ‘Prince of Arcot for the time being’. I propose that as a mere verbal amendment to which I hope the House will have no objection.”

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur seconded it.

13th November 1922]

Clause 3—cont.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I should like to ask the hon. the Advocate-General whether the Prince of Arcot is a hereditary title."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*) :—"Yes, it is, under special arrangements with the Government."

The motion was put and the alteration made.

Khan Bahadur MUHAMMAD SADULLA BADSHA SAHIB :—"Sir, I rise to move the following amendment standing in my name :—

After the words 'in accordance with such rules' in line 27 insert the words 'subject to their previous publication for criticism by the public'.

"Hon. Members are aware that a scheme for the administration of the endowments in the Trichinopoly district is detailed in Schedule C to this Bill, but no such scheme has been framed in regard to the administration of the endowments or institutions or monuments situated in the City of Madras, North Arcot and Tanjore districts. The Muhammadan public, a considerable section of them, desire—and I echo their feeling—that provision should be made in the statute itself in regard to the administration of the endowments situate in Madras, North Arcot and Tanjore districts as in the case of Trichinopoly. When I urged in the Select Committee that provision should be made for this in the Bill, I was told that such amendments could not be carried out by the Select Committee as this Council had already accepted the general principles of the Bill and that such an amendment was a practical departure from the principles already accepted. But I doubt whether the amendments I proposed were such as a Select Committee could not carry out. After all it is a matter of opinion. Anyhow I wish to make this particular amendment and see that the Bill is amended at this stage at least in the way I have indicated."

At this stage the Council adjourned for lunch and re-assembled at 2-30. The Deputy President was in the Chair.

Khan Bahadur MUHAMMAD SADULLA BADSHA SAHIB (*continued*) :—"The Muhammadan public would desire that the properties and endowments and monuments in the districts of Madras, North Arcot and Tanjore should be subject to proper administration and with proper safeguards in the same way as those in the Trichinopoly district. But I hope the Madras Government, to whom the power of making rules in regard to the administration of the endowments in these districts is entrusted, will see that provision is made in the rules to be framed by them, on lines similar to those in schedule C. I would, therefore, not press that a detailed scheme should specifically be inserted in the Bill itself as in the case of Trichinopoly. In my opinion, the rules to be framed by the Madras Government should be made only after a draft of the rules is published for criticism by the people concerned. No doubt they might do so. But I wish a specific provision in that direction is inserted in the Bill itself. Clause 3, as it now stands, does not provide that previous publication of the rules for criticism is specifically required by law. So I propose the present amendment, which I hope will satisfy the Muhammadan public, and also believe will be accepted by this Council. I doubt whether the addition proposed by the Select Committee to clause 4 in regard to the previous publication would apply to the rules to be framed by the

[Mr. Muhammad Sadulla Badsha Sahib] [13th November 1922]

Clause 3—cont.

Government under clause 3 for the management of properties in Madras, North Arcot and Tanjore districts. To place matters beyond doubt, I have proposed this present amendment which I hope the Council will accept."

SAIYID DIWAN ABDUL-RAZAAQ SAHIB seconded the amendment.

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—"I appeal to the hon. mover of this amendment not to press it because I am going to accept an amendment which will really carry out his object, arising out of clause 4. I have explained the matter to him and I believe that with this assurance he will not press his amendment."

Khan Bahadur MUHAMMAD SADULLA BADSHA SAHIB :—"I have no objection to withdraw my amendment in view of the assurance given by the Advocate-General."

The amendment was by leave withdrawn.

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—"Mr. President, before clause 3 is put to the Council, I wish to move an amendment, that in line 22 after the word 'endowments', the words 'and institutions' be added in order that the clause may have reference to both schedules A and B of the Bill. Schedule A relates to endowments and schedule B to institutions. Similarly, in line 27 after the word 'endowments', the words 'and institutions' have to be added."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—"I have great pleasure in accepting that verbal modification because it will tend to uniformity of language."

The amendment was put and carried.

Clause 3 as amended was then put, passed and added to the Bill.

Clause 4.

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I move the following amendment in clause 4 :—

In line 36 omit the word 'such' and after the word 'rules' insert the words: 'for modification of the rules in schedule C as specified above or for the administration of the endowments specified in schedule B.'

"The clause as it stands reads as follows: 'The rules in schedule C except rules (1), (2), (3) and (11) may be added to or altered by the Local Government after consultation with the Prince and the committee, if any, appointed under the rules. . At least sixty days before making any such rules the Local Government shall publish a draft of the proposed rules in the *Fort St. George Gazette*, and any person may, during the said period, make any objection or suggestion to the Local Government who shall take the same into consideration before finally making the rules. The rules may be made by the Local Government either as originally drawn or as amended and shall come into operation forthwith or at such time as may be prescribed in the rules.' It would be found from the report of the Select Committee that the latter portion of the clause was inserted in view of the representations made that sufficient opportunity should be afforded to the Muhammadan community to express their views before alterations are made or rules are suggested. But as the clause stands, it applies only to the alterations made in schedule C in

13th November 1922] [Mr. A. S. Krishna Rao Pantulu]

Clause 4—cont.

accordance with the provisions of the first portion of this clause. But the discussion on the previous amendment of Mr. Sadulla Badsha Sahib would have made it clear that there is a strong feeling that provision should be made for due publication and for consideration of the objections urged by the representatives of the community even in the case of rules framed in regard to endowments other than those covered by schedule C. Therefore the object of this amendment is to make it clear that even in cases where rules have to be framed regarding other endowments and institutions in clause 3 as now modified, provision should be made for the publication of the rules and objections should also be considered. The amendment is so reasonable that I do not wish to say much in support of it."

Rai Bahadur T. M. NARASIMHACHARLU :—" I second it."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*) :—" Mr. President, I have no objection to accept the amendment if the hon. mover of the amendment will consent to one or two small verbal changes. They are: *instead of 'for modification' insert 'in modification' and omit the words 'as specified above.'*"

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I have no objection to do so."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*) :—" Mr. President, as amended the clause would read :

' At least sixty days before making any rules in modification of the rules in schedule C or for the administration of the endowments specified in schedule B the Local Government shall publish a draft of the proposed rules in the *Fort St. George Gazette*, etc.'

The amendment was put and carried.

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, I move the following amendment :—

Number the portion beginning with the words ' At least sixty-days ' and ending with the words ' prescribed in the rules ' as clause 4-A.'

" Sir, this amendment merely suggests that this will be made a separate section. According to the original scheme of the Bill, it was intended to deal with alterations to rules in Schedule C. Now that we have consented to the amendment which will not only affect the rules in Schedule C but also those in Schedule B, the amendment which I move is necessary and it is more desirable to constitute this a separate section altogether."

Raj Bahadur T. M. NARASIMHACHARLU :—" I second it."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*) :—" I have great pleasure in accepting the amendment. Technically it may be pointed out that the word ' 4-A ' should be inserted before the words ' at least ' and that it should be separately paragraphed."

Clause 4 as amended was put, passed and added to the Bill.

Clause 5.

2-45 p.m. Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, I beg to move the following amendment :—

5. *Omit the clause.*

[Mr. A. S. Krishna Rao Pantulu] [13th November 1922]

Clause 5—cont.

“Sir, clause 5 reads as follows :—

No suit claiming any of the reliefs specified in the Religious Endowments Act, XX of 1863, or in sub-section (1) of section 92 of the Code of Civil Procedure, 1908, shall be instituted or maintained or continued in respect of the aforesaid charitable and religious trusts.

“At the time when this Bill was introduced, a question was raised as to the desirability of retaining this provision in the Bill. Even on the former occasion, it was pointed out by some of us that the retention of a provision of this description was calculated to affect the existing rights, and that the safeguards provided in the Religious Endowments Act or in the Civil Procedure Code were quite adequate to meet cases where applications were frivolously made to bring these matters before courts. In the course of the discussion it was urged by the Advocate-General that these were not to be treated as public trusts, that they were more or less in the nature of private trusts and that a distinction should be drawn from that standpoint.”

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*) :—“Sir, I rise to a point of personal explanation. This particular statement has been made more than once, both inside and outside this House, and I also see an averment to this effect in the petition that has been presented to this House. It is, therefore, incumbent upon me to point out that I stated that there were certain characteristics of these endowments which differentiate them from the ordinary *wakf* or Muhammadan trusts; and to that extent I adhere to my previous statement. But I did not say that these endowments formed part of private trusts”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“I am glad, Sir, that the Advocate-General has drawn that distinction; to the extent to which he has stated nobody can take any exception, because a perusal of the decision of their Lordships of the Madras High Court would also show that there are some distinct features in the case of these endowments, especially in the matter of the control exercised by the Prince of Arcot over the *mutawali*. Their decision makes it clear that, regarding the general principles of the Bill, these trusts cannot be distinguished from other public trusts. It will be noticed that since the introduction of this Bill last year and during the progress of this Bill before the Select Committee, various representations were made on behalf of the Muhammadan community and their views regarding this question were very clearly placed both before the public and the Select Committee. As has been pointed out by the Select Committee representations were made both for and against the Bill and we are highly indebted to all those who have supplied us with printed pamphlets dealing with this question. I am particularly glad that this morning we have been furnished with a statement containing the opinion of the Moulvis and the religious divines respecting this question.

“Sir, the point for consideration is whether notwithstanding all that has been stated on both sides, there is any real necessity for adopting this clause which takes away the jurisdiction of civil courts. We ought not to embark upon this precedent of taking away the normal powers of judicial tribunals in dealing with cases affecting the administration of public trusts unless a real necessity was made out for embodying such provisions. It will be found that whenever applications are made to deal with trusts either

13th November 1922] [Mr. A. S. Krishna Rao Pantulu]

Clause 5—cont.

under the Religious Endowments Act or under the Code of Civil Procedure, there are ample opportunities for the Advocate-General or the Collector of the district to make full and proper inquiry into the circumstances relating to the administration of the trust and either to grant or withhold sanction for the institution of suits. If on the other hand we agree to eliminate that provision from those statutes so far as the administration of the trusts of the Prince of Arcot is concerned, then I submit that we shall be creating a very dangerous precedent in the matter of administration of religious trusts. It is on these broad principles that I have considered it necessary to place this aspect of the question before the House. We do not in the least show any sort of unwillingness or hesitation to accept the position which has been created by any treaties or any obligations. The Select Committee in dealing with this question stated as follows :

Various objections have been raised to the Bill by individuals and representatives of Muhammadan institutions. The main objection was to clause 5. This clause was considered necessary with reference to the special historical incidents connected with the institutions in question and by reason of the fact that the Prince of Arcot's possession of these endowments was recognized and confirmed under political arrangements with an understanding that he ought not to be amenable to the jurisdiction of civil courts. Without deciding whether the Prince is entitled to exemption from being sued in respect of these endowments as he is in his personal capacity, under Act XX of 1863, it was considered that subject to the safeguards contained in the Bill, the peculiar position of the Prince of Arcot in relation to these endowments necessitates such provision.

"Sir, I may frankly state that I have not been able to follow whether there has been an express understanding that he ought not under any circumstances or for any purposes be amenable to the jurisdiction of civil courts. My attention has been drawn to some privileges conferred on him, but in my opinion they do not go the length of suggesting that there was an understanding of this character. Again, it is stated in the report of the Select Committee : 'that subject to the safeguards contained in the Bill' it was considered that a provision like this might be incorporated. But clause 5 which I propose to be omitted from this Bill does not by itself suggest any means by which the powers hitherto exercised by civil courts can be exercised by any other extraneous body. I can understand the case wherein instead of the civil courts being called upon to exercise the functions hitherto vested in it, some other body in which the public can have confidence is created for the purpose of exercising these functions. I have tried to go through this Bill as carefully as possible, and in the rules and discussions I have not been able to find anything which suggests that the powers hitherto exercised or exercisable by civil courts in the matter of administration of trusts can be exercised or made exercisable by any other body in which the public can have confidence. If any such provision had been incorporated, I would not have found it necessary to come forward with this amendment. In the absence of any appropriate safeguard to that extent and in the absence of any alternative provision either in the Bill or in the schedules, I think it is necessary that this House should not go the length of giving its assent to the present clause 5. If, in the matter of safeguards, the Select Committee had in its mind the rules in Schedule C, and if it was to these rules that their attention was drawn, may I point out to them that these rules do not confer either on the Collector of the district or on the Local Government powers such as those that have been exercised by courts either under the Religious Endowments Act or under the Code of Civil Procedure. What do these

[Mr. A. S. Krishna Rao Pantulu] [13th November 1922]

Clause 5—cont.

rules provide? So far as the management is concerned, these rules confer fairly absolute powers on the Prince of Arcot. Rule 6 states:

The Collector shall appoint an advisory committee of five leading Muhammadan residents in Trichinopoly for the purpose of assisting and advising him in the matter of the endowments.

"It is only an advisory committee. Later on it is stated:

The powers of the committee shall be confined to the inspection of the religious and charitable institutions in Trichinopoly including the endowment office and to advising the Collector and all action on such advice shall be taken by the Collector.

"Rule 8 says:

The agent shall prepare a budget of income and expenditure for each year in consultation with the committee and in accordance with the proportions mentioned in rule 2 above.

"But do we find in these rules any provision for interference when there is malfeasance or misfeasance or any misappropriation on the part of the trustee himself? We do not find any such provision in these rules. If the Government have reserved to themselves full and complete powers to interfere in these cases to the full extent, then probably that argument might be said to have been based on the plea that instead of having the expensive and cumbrous machinery of law courts and the protracted hearing of cases therein, we should have a simple and less expensive machinery. We find absolutely no such provision giving powers to the Collector of Trichinopoly in the cases referred to by me. If the Council gives its assent to this Bill, then it would amount to giving its sanction to the incorporation of provisions which would take away all control of the Government and the law courts in the matter of the administration of these public trusts. It is therefore a very serious provision that has been incorporated in this Bill and I would request this House to consider whether it would not form a very dangerous precedent in the matter of all trusts. This is not to be taken as a solitary instance of our conferring some special privileges on the Prince of Arcot. We are all anxious that anything which can possibly be done to enhance his prestige and to preserve his dignity ought to be respected and safeguarded. But these affect the rights of the general public without at the same time affecting the position or the prestige of the Prince of Arcot. If we pay attention to the old orders in pursuance of which these were transferred to the Prince of Arcot, we will find that the Government then thought it was necessary to preserve the existing vested rights. I will draw the attention of this House to G.O. No. 98, dated 9th April 1867, in pursuance of which some of these endowments were transferred to the Prince of Arcot. This was the order referred to in the Statement of Objects and Reasons while this Bill was introduced. It will support my position rather than controvert it. The order runs as follows:

"The Government being recently determined that the superintendence of the mosques and tombs in the Presidency connected with the Carnatic family, shall be entrusted to His Highness Prince Azim Jah Bahadur and all his successors"

His Highness and successors in title being held responsible for the repairs and maintenance of these structures, receiving such of the revenues attached to them as are at the disposal of the Government, subject to a reservation of existing rights, the Governor-in-Council directs that the Collectors of North Arcot and Trichinopoly will make immediate arrangements for making over to the charge of His Highness and his successors the mosques and tombs specified in lists A and B appended to the foregoing letter in so far as this can be done without prejudice to the rights of the other parties.

"Well, Sir, it was subject to these reservations that the Government Order was issued. I would ask this House whether it will be justified in

13th November 1922] [Mr. A. S. Krishna Rao Pantulu]

Clause 5—cont.

giving its assent to a measure which will have the effect of affecting the existing rights of the members of a community who are interested in the proper management of these trusts. It is from that standpoint that I request this House to look at this question. I think that no necessity has been shown for the incorporation of this provision in this Bill and I think there is a very great danger if we give our assent to this measure. With these remarks I commend by amendment for the acceptance of the House."

Sriman BISWANATH DAS Mahsaya seconded the amendment.

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—"Sir, inasmuch as the question has been directly raised as to the necessity of this measure it is my duty now to justify its retention. In the first place let me assure you, Mr. President, that it is not the intention of any one in charge of this measure to make this measure a precedent. And I may at once mention that I shall be the last person who shall derogate from the ordinary rights of the public in regard to religious endowments. It is because in the case of the Prince of Arcot he occupies an exceptional position that, far from making a precedent, in order to meet an exceptional contingency or state of things, this Bill has been brought forward. In order to enforce that position let me refer to the papers to which advertence has already been made by the hon. Member who is in charge of this motion. The hon. Member read the final order. Let me invite the attention of the House to what happened in regard to this question of the Prince of Arcot. It will be remembered by the hon. Members of this House that the Prince of Arcot was really a sovereign until 1801. In 1867 the title of the Prince of Arcot was confirmed and at the time that that title was confirmed the question arose as to these endowments. The Government asked the Prince of Arcot whether he would take charge of these endowments. He said he would take charge of them and continue them as his predecessors had continued, provided and only provided that he was not interfered with by any committee or any persons, who would supervise him or pretend to supervise him. At that time the question of the Act of 1863 was properly raised and it would be instructive to this House to notice what happened. This was before the transfer of the endowments under the control of the Prince of Arcot."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"May I know what the hon. Member is reading from?"

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—"It was a paper which was placed before this House and what I am reading now is contained in certain papers which were read at the previous discussion. The hon. mover has referred to the last portion of that very paper. I may invite his attention to the earlier portions:

His Highness desires that an explanation should be given relative to the condition whether or no his successors should be subject to the control of any committee appointed under the Religious Endowment Act.

"The Prince of Arcot declined to have anything to do with these endowments unless he was assured by the Government at the time that he would be free from the control of the committees. The answer of the Government was:

I am directed to inform you that the Government have no intention of subjecting the Prince to the control of any committee in connexion with any endowments or houses dealing with the Carnatic family.

[The Advocate-General] [13th November 1922]

Clause 5—cont.

“That was the condition on which the transfer was made. Questions were raised in Trichinopoly in the course of a suit. This matter was raised. The hon. Member from Trichinopoly, Sir T. Desika Achariyar, who sits opposite would bear me out when I say, that it was a very difficult question indeed. The matter had to be investigated in the Trichinopoly court as to whether the Prince of Arcot was subject to the supervision of a committee or not and whether any suit was sustainable under section 82 of the Religious Endowment Act; and two opinions were held. And it was because of that difficulty that surrounded the problem a compromise was arrived at. Let us see what the Prince had agreed to. The Prince had waived his right in regard to Trichinopoly. He has waived his right to take objection to the maintaining of suits about the properties under the Religious Endowment Act. In terms of these rights the rules have been framed.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—“Between whom was the compromise arrived at?”

MR. C. P. RAMASWAMI AYYAR (*Advocate-General*):—“Between the public of Trichinopoly represented in that suit and the Prince of Arcot himself with regard to the endowments in Trichinopoly, under the Religious Endowment Act; and therefore technically it was a public suit and therefore the public were bound by the compromise. It was also said under section 92 that the public are bound by the terms. Further than that, so far as Madras is concerned, I reiterate what I have once stated before, that the position stands on a very peculiar footing. It will be remembered that these Walaja and Anwari mosques were claimed by the Prince to have a kind of chattel appurtenant to the Nawab of Carnatic when he was a ruling sovereign. He also said that in reality he was the Mutawalli though there was another Mutawalli in name who was either appointed or dismissed by him. That contention is really supported by the very case to which advertence has been made, because the judgment of Sadasiva Ayyar, J., has stated definitely that in real legal connotation he is the Mutawalli for these mosques which are appurtenant.

“The Mutawalli sharers or enjoyees of that name have really no name. It is in regard to that special position and in order to preserve these special rights that this Bill has been brought forward. I may mention that the compromise in the Trichinopoly suit would not have been arrived at excepting as a part of this scheme and the Prince of Arcot was assured that in that matter his position would be put right, that he would not be subject to suits under the Act of 1863. It was on that basis that he agreed to the compromise. Having regard to the previous history of the matter and regarding the pivotal nature of this clause there is no object served in pushing this Bill through without it.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—“Mr. President, I should like to ask the hon. the Advocate-General who is in charge of the measure first of all whether the assurance that he gave that this would not be a precedent is given by him on behalf of the Government. My friend will at once see my point. This is a Government measure and it is not a private measure. I understand that there is another Act dealing with religious endowments.”

13th November 1922]

Clause 5—cont.

The hon. the RAJA OF PANAGAL :—"The other Bill which my friend has alluded to does not deal with Muhammadan endowments."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*) :—"I may for the information of the hon. Member opposite inform him that there is no proposal in that Bill to take away the rights under section 92."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"That is exactly what I wanted to find out. If, as a matter of fact, this provision is likely to be a thin end of the wedge to deprive civil courts of jurisdiction over public charities I think that would be a sufficient ground to contest this particular measure on this very ground. If my friend says that this will not be a precedent I wish to know whether that will be the attitude of the Government. If the hon. Member says that there is no such intention"

The hon. the RAJA OF PANAGAL :—"Not at present."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"There is still a doubt whether my hon. friend would introduce in the other Bill a provision to deprive the ordinary jurisdiction of civil courts with reference to public charities and, so long as I have no definite assurance, I certainly would oppose this measure to deprive the ordinary courts of the land of their present jurisdiction with reference to public charities. Now, Sir, my hon. friend said that the Prince of Arcot was assured in regard to the compromise that was arrived at Trichinopoly that a measure of this kind would be put forward to set right his position without the interference of the civil courts with reference to the public charities. I thought that that measure was a measure between the Prince of Arcot and certain residents of Trichinopoly. I should like to have an assurance. Why the people agreed to this provision is not clear. I do not know. I will take the facts as they are and proceed to show the great difficulty of accepting a position such as this. The rules framed under schedule C say that the Prince of Arcot should be in possession of these properties and that he should have the power of controlling the agent appointed under rule 4 of schedule C. I take it, Sir, that the Prince of Arcot would collect the rents of these properties. He would be in charge of the funds. He would be the legal owner for the time being of all the properties which are mentioned in schedules A and B. You may take the case where notwithstanding this Act the Prince of Arcot deliberately sells a portion of the property. If you deprive any person of the right of instituting suits in civil courts to set aside these alienations or to deprive any of the persons interested of their right to bring suits in respect of charitable and religious trusts, what is the position? How can these alienations be got rid of if you deprive civil courts of their ordinary jurisdiction? Then again assuming that with all the funds accumulated in the hands of the Prince he says that he won't pay the agent and that he won't allow the agent to be in possession of funds. The agent alone is removable here under the orders of the Collector. What is to become of the administrator of the charity? Government did not reserve in these rules any power to remove the Prince of Arcot from the position of the trustee. Therefore you are trusting a trustee who is irremovable and who cannot be brought to book if there is maladministration. Assuming that the Prince of Arcot deliberately sells a portion of these properties, what is the remedy? Therefore I think this provision may result in depriving the persons interested from their right of suit with respect to these

[Mr. M. Ramachandra Rao Pantulu] [13th November 1922]

Clause 5—cont.

public properties. Therefore, unless my hon. friend gives us some explanation of the exact position of the Prince of Arcot showing how, if there is a misappropriation of funds or an alienation of the trust properties, he proposes to set aside these transactions or to bring the Prince to his bearings in regard to the administration of the charity, I maintain that clause 5 is inadequate and incompatible with the administration of public charities. If there was a rule in clause C in schedule C that for any reason which may be found to be sufficient the Government may remove the Prince of Arcot from the position of the trustee, it means that the Government will take the place of ordinary courts, and we shall have no objection to support this Bill. It seems to me that the rules as they are framed place the Prince of Arcot in the position of a person who may do what he likes. For these reasons, unless I hear my hon. friend on these points, I shall have to oppose this clause."

Khan Bahadur MUHAMMAD USMAN SAHIB Bahadur:—"I beg to oppose the motion of Mr. Krishna Rao. This Bill has been brought to give certain privileges to the Prince of Arcot. It will be remembered that the rights that this Bill intends to give to the Prince of Arcot were enjoyed by his predecessors on a larger scale. By this Bill the Prince of Arcot saves himself from the worry and expenses of litigation and gives up his rights of the administration of these charities and has also given up his rights with regard to the surplus income. As has been pointed out by the Advocate-General these properties are not regular *wakf* properties. Therefore the forefathers of the Prince of Arcot had the right of spending the surplus revenue after satisfying the charities as their own personal property. By this Bill this procedure is given up. By this Bill the Prince of Arcot will have to deal with the surplus revenue by giving it to charitable purposes outside the Trichinopoly district. By this Bill the charities outside the Trichinopoly district are gainers and not losers.

"With regard to the misappropriation of funds, a point which has been raised by my hon. friend Mr. Ramachandra Rao, I may point out 3-15 p.m. to him that it is always open to any member of the Council to bring an amending Bill providing for any safeguards against such misappropriation. With regard to the question of the position of the Muhammadan community towards this bill, I think that my hon. friend Mr. Krishna Rao has not gauged their feeling properly. My friend has perhaps taken the opinion of a few Muhammadans in his neighbourhood; I am here representing the Muhammadans of this city, and I know what their feeling and sentiment in this matter are. They all like to see that some special position is given to the Prince of Arcot. You will notice, Sir, that no Muhammadan Member of this House has given any amendment similar to that of Mr. Krishna Rao. This is because they all know that the community wants that some special position should be given to the Prince of Arcot. Of course, there are some interested persons who have made some appeals against the Bill to Muhammadan Members of this House, but their appeals were not listened to. Mr. Krishna Rao says that because some interested persons want that something should be done, therefore it should be done. Sir, this morning I presented two or three petitions. The first of these was from the worshippers of some of the mosques situated in Triplicane and Georgetown. They all support the Bill. The second is the opinion of the Divines

13th November 1922] [Mr. Muhammad Usman Sahib]

Clause 5—cont.

of Madras. About 16 distinguished Divines of Madras have passed a resolution in favour of this Bill, which is found in the petition. Therefore, the House may well leave this question to the Muhammadans and may well be guided by us in this matter. A number of distinguished Muhammadans have told me that it is the intention of the community to see that some special position is given to the Prince of Arcot. I, therefore, request the House to reject the amendment of Mr. Krishna Rao; for he has not supported his amendment by any arguments either from history, as has been pointed out by the Advocate-General, or from the opinion of the Muhammadan community."

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—" Sir, a suit was instituted by those interested in these endowments in Trichinopoly. Sanction had been obtained for the institution of that suit both under the Religious Endowment Act and under section 92 of the Civil Procedure Code. The suit was one instituted in a representative character. It went on for many years. The Prince pleaded that he was above municipal law and that he was not subject to the jurisdiction of the ordinary courts. Evidence was taken and the case was heard more than once. Eventually the case was compromised. When the compromise was entered into, the Prince made it a condition that he ought not to be subjected to any control from a court. That is one of the reasons why the Collector of Trichinopoly was substituted along with an advisory committee to control these endowments; so that both the inhabitants of Trichinopoly and the Prince of Arcot consented that, so far as these particular endowments were concerned, the Prince ought to be beyond the pale of an ordinary court. It was true that at that time it was mentioned by a member of the Board of Revenue, who had also a hand in bringing out the compromise, that the matter would be taken up very soon before the Legislative Council and an enactment passed, so that the prestige and the dignity and the position of the Prince would be maintained without interference by ordinary tribunals of justice. So far as the points raised by my hon. friends Mr. Krishna Rao and Mr. Ramachandra Rao are concerned, I will easily answer them. They were contemplated at that time. That is why clause 1 of the compromise made it a distinct condition that the Prince should not appropriate any part of the income for his private purpose and that all the income derived from endowments specified in Schedule A should be used only for certain charitable and religious institutions.

"With regard to any misappropriation, one remedy was suggested by my hon. friend Muhammad Usman Sahib. There is another remedy which I need not suggest because that is one resort to which will, I hope, never happen; it is the Penal Code. It is not stated that section 92 and section 20, which are referred to in clause 5 of the present Bill, have alone anything to do with misappropriation or criminal breach of trust. There is also the remedy that is available to the ordinary member of the public under Order I, rule 8 of the Civil Procedure Code, to revest property which is improperly alienated by a trustee in that trustee again. Therefore, there is every safeguard for revesting the property improperly alienated and for due administration of justice. As regards removal, the power was considered to be one which ought not to be used either by the Collector or by a court of justice with reference to a person occupying the position and the dignity

[Sir T. Desika Achariyar] [13th November 1922]

Clause 5—cont.

of the Prince of Arcot. With reference to this amendment, the matter was discussed for a long time and a sort of compromise was arrived at, and I think Muhammadan public opinion in Trichinopoly would be averse to any interference with the scheme which they have proposed of their free will."

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I should very gladly support this clause 5, but for one difficulty that I feel in the rules. The rules, no doubt, are there and I quite approve, if I may say so, what the Advocate-General said, viz., that they provide for every safeguard. But when I read rule 3, it seems to me that there is some difficulty about it. This rule enables him to create a deadlock if the Prince of Arcot is so minded. The rule says that 'the Prince of Arcot for the time being shall be entitled to appoint an agent to manage the charities,' etc. The rule simply says that he shall be entitled to do so. It gives him a right to appoint. But what is there to compel him to appoint an agent? The subsequent rules, no doubt, indicate who the agent should be, how he should be guided and controlled, etc. The whole tenor of the rules is this: that the income shall be appropriated for the endowments and the institutions and the management shall be in the hands of the agent and the agent shall be amenable to the powers of the Collector and the committee that are contemplated here. But, I submit, Sir, what is there to compel His Highness the Prince of Arcot to appoint an agent? That is the difficulty that I feel and if, at any time His Highness the Prince of Arcot is so minded, he may not appoint an agent at all, either in the beginning or on the occurrence of a vacancy and then a deadlock might be created. So, Sir, if the learned Advocate-General will kindly consider my points and provide for the necessary safeguards, I think that, in keeping with the feeling of the Muhammadan gentlemen in Madras and elsewhere, this Bill may be passed."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*) :—" When the rules in Schedule C are discussed, I think, there will be no objection to provide against such deadlocks occurring. But before I pass on from this topic, let me advert for a moment to the problem suggested by my friend Mr. Ramachandra Rao. He was apprehensive regarding the alienation of these endowment properties. The answer to this is clear. This Act specifies what the properties are. They cannot be alienated and whoever is in possession of them is a trespasser. So far as the income from the properties is concerned, the rules, as amended, now make it clear that the Government have got the right and the power to frame rules for the administration of these endowments. I think that this will satisfy the House."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I only wish to say a few words in reply. It was pointed out by my hon. friend

3-30 p.m.

Mr. Usman Sahib that the opinion of the Muhammadan community is all in one way in this particular and that there was no necessity for bringing forward this amendment. A question of this description largely affects the vital interests of the Muhammadan community. We have in our hands a paper, which was referred to by the Select Committee, presented by a vakil on behalf of certain Muhammadans in which he had gone to the length of stating that all the Muhammadans are against this clause. I only wish to satisfy the House that there is a divergence of opinion among the Muhammadan community and it is not possible to come to

13th November 1922] [Mr. A. S. Krishna Rao Pantulu]

Clause 5—cont.

any definite conclusion as to which version is to be accepted. Otherwise, I cannot understand how the petition presented on behalf of the Muhammadan community before the Select Committee should go to the length of saying that the Muhammadans are against this clause. Having said so far about the divergence of opinion, I will venture to suggest that no satisfactory reasons have been found for retaining this provision.

“It was pointed out that if, after working this Act for some time, it is found that there are difficulties in it and that there is a breach of trust which has not been provided for, any hon. Member might bring forward an amending Bill. If there is a possibility of such a contingency ever arising before we have practically satisfied ourselves about the necessity for this measure, are we to accept this motion? It was suggested as one of the reasons for the retention of this clause that the rules in Schedule C provide sufficient safeguards and therefore we need not object to this clause. I am trying to satisfy the Council that the rules in Schedule C do not provide for all contingencies. It does not make it obligatory upon the Prince of Arcot to appoint an agent though certain powers have been given to the Collector in the first instance and the Government thereafter on appeal. Therefore, if we are satisfied that the schedule does not provide for cases of mismanagement or misappropriation of trust properties, I do not think we are justified in giving assent to this clause.”

The amendment was put and lost.

Clause 5 was put, passed and added to the Bill.

Schedule A.

Schedule A was passed and added to the Bill.

Schedule B.

The amendment to Schedule B, viz., ‘omit items Nos. 15, 16 and 17 in the list’ standing in the name of Rao Bahadur A. S. Krishna Rao Pantulu not having been moved, Schedule B was then put, passed and added to the Bill.

Schedule C.

Rule 1.

Khan Bahadur MUHAMMAD USMAN SAHIB moved the following amendment:—

(a) Omit the word ‘Muhammadan’ occurring in line 3. (b) Insert the words ‘specified in Schedule B’ after the word ‘district’ in line 4.

In doing so, he said:—“My object in moving the amendment is that the income intended for mosques should be spent only on similar institutions and not on other charitable or religious institutions. This is quite in accordance with the principles of Muhammadan law as might be seen from the fatwa which I presented to the Council this morning. By passing my amendments the religious and charitable institutions outside the Trichinopoly district specified in Schedule B which are now half-starved will receive immense benefit.”

[13th November 1922]

Rule 1—*cont.*

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—"I have great pleasure in seconding and accepting this amendment."

The amendment was put and carried.

Rule 2.

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—"Consequent upon what has happened it has now become necessary to amend rule 2. The amendment is: In lieu of the words 'which are now under his management' substitute the words 'specified in Schedule B' and omit the words 'above mentioned'."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur seconded the amendment.

The amendment was put and carried.

Rule 3.

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"The words 'be entitled to' in this rule is likely to lead to some difficulty if the Government want to reserve some power in the management. Therefore I move that the words 'be entitled to' be omitted in rule 3."

Rai Bahadur T. M. NARASIMHACHARLU:—"I second it."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—"I have no objection in accepting the amendment."

The amendment was put and carried.

Rules 4 and 5.

Rules 4 and 5 were then put and carried.

Rule 6.

Rao Bahadur A. S. KRISHNA RAO PANTULU moved the following amendment:—

For the words 'five leading Muhammadan residents in Trichinopoly' substitute the words 'five Muhammadans chosen by the Muhammadan residents in Trichinopoly according to the rules framed by him'.

In doing so, he said:—"Sir, I accept the principle embodied in this rule. But so long as it is an advisory committee, I think it is more desirable to give the opportunity to the Muhammadans to suggest such persons instead of leaving it to the good will of the Collector. I think that in these days of development of democratic institutions there ought to be no difficulty in accepting this amendment."

Rai Bahadur T. M. NARASIMHACHARLU:—"I second it."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—"I cannot accept this. It will be bringing on the troubles of one more election. It is an election for a very subsidiary purpose. In order to constitute an advisory committee an electoral roll of the Muhammadan residents has to be maintained; elaborate proceedings will have to be taken and probably the cost of the proceedings will fall on the endowments."

13th November 1922]

Rule 6—*cont.*

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"I do not think the objections urged are so great as to necessitate my withdrawing the amendment. There is an electoral roll for the municipal council ; there is an electoral roll for taluk boards, and I do not think there will be any difficulty in preparing an electoral roll for the Muhammadans. My amendment suggests that the rules should be framed by the Collector himself for the purpose of choosing representatives from the Muhammadan community."

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—"I want to point out that this Act is the result of a scheme suit in which a compromise was brought about in Trichinopoly between the Muhammadan residents of Trichinopoly and the Prince of Arcot and it was understood at the time that any change that they wished to make could be brought about only with the consent of the Prince of Arcot."

Khan Bahadur MUHAMMAD USMAN SAHIB :—"As the House is already aware, a *razinama* was entered into by the people of Trichinopoly and the Prince of Arcot. The people of Trichinopoly do not want that five members should be elected. Further the expenses, connected with the proposed election, might well be spent on the charities themselves. I therefore oppose the motion."

The amendment was put and lost.

Rule 8.

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"The amendment which I wish to move is this:

9 (a) *After the words 'mentioned in rule 2 above', insert the words 'and shall publish the same, at least one month before the commencement of the year'.*

"I submit, Sir, that no purpose will be served by preparing a budget of income and expenditure under rule 2, unless it is published for the benefit of those who are affected by this Endowment Bill. Therefore, I only move the first part of this amendment. So far as that is concerned, I think there ought to be no objection."

Rai Bahadur T. M. NARASIMHACHARLU :—"I second it."

The amendment was put and carried.

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"The amendment that I wish to move is:

After the words 'portion of the budget' insert the words 'or if any objections are received in writing from not less than 10 Muhammadans in Trichinopoly.'

"The object is clear. We are all agreed that the members of the committee to be appointed are only to be nominated by the Collector. This House has not given its assent to the amendment which gives powers to the Muhammadans in choosing the representatives to make their own representations in regard to the budget. Of course it is open to the authorities to pass any orders as they think fit. But once the House has decided not to give the right of representation to the Muhammadans to choose their own

[Mr. A. S. Krishna Rao Pantulu] [13th November 1922]

Rule 8—*cont.*

representatives, I think it will be a very salutary provision to give the Muhammadans an opportunity of making their representation and to suggest to the committee what they think best in their interests."

Rai Bahadur T. M. NARASIMHACHARLU :—" I second it."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*) :—" I am afraid I cannot accept this amendment. There are obvious difficulties. In the first place it will probably provoke a number of suggestions which may otherwise not come forth. There is absolutely nothing to prevent any person from bringing such objections. If any man suggests a sensible objection, his objection will be considered. There is nothing here to prevent any objections from persons being considered. I do not think we need have a rule. It will first of all limit the number of objectors. In the second place it may encourage people to bring forward immaterial objections. I cannot accept the amendment."

The amendment was put and lost.

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" My amendment is this :

Add at the end the words 'for orders'.

"As the rule at present stands, we do not know what Collectors will do. Rule 8 provides for the agent and the committee. Have they simply to record these papers? The matter is not quite clear. I think that will be made clear if some discretion is given to the officers."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*) :—" I accept it."

The amendment was put and carried.

Schedule C as amended was put, passed and added to the Bill.

The preamble was then put, passed and added to the Bill.

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*) :—" I now move that the Bill as amended be passed into law."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I second it."

Khan Bahadur MUHAMMAD USMAN SAHIB :—" Sir, I beg to support this motion. In doing so, I should express my indebtedness to the hon. the Raja of Panagal, Chairman of the Select Committee, for the great sympathy shown towards this Bill throughout its various stages, and I think that I should express the same to the hon. the Advocate-General for having taken good deal of pains. Unfortunately on behalf of some interested persons of no importance my hon. friend Khan Bahadur Muhammad Sadulla Badsha Sahib presented a petition to this House at the last meeting containing insinuations against the hon. the Advocate-General. As hon. Members are aware, this Bill has been on the legislative anvil for the last four or five years. This Bill was under the charge of Mr. S. Srinivasa Ayyangar and Mr. K. Srinivasa Ayyangar before the Council at the time when they were Advocate-Generals. The present Advocate-General is not responsible for the drafting of this Bill. Therefore insinuations against

13th November 1922] [Mr. Muhammad Usman Sahib]

the present Advocate-General are unworthy of the persons who made them and unworthy of a petition to the Council. With these words I support the motion that the Bill be passed into law."

The motion was put and carried and the Bill as amended was finally passed into law.

VIII

THE MADRAS SURVEY AND BOUNDARIES BILL, 1921.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, I have the honour to present the report of the Select Committee on the Bill to amend the law relating to survey of lands and settlement of boundary disputes and to move that the Bill as amended by the committee be taken into consideration. In doing so, I do not consider it necessary to make any remarks in regard to the report of the Select Committee, a perusal of which ought to convince every hon. Member of this House that it is so full, so clear and so lucid that it does not require any comments from me. But I think I feel bound to pay my tribute to the members of the Select Committee for the great trouble they took, for the time which they spent and for the attention which they paid to the discussion of the Bill."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*):—"I second it."

Mr. K. PRABHAKARAN TAMPAN:—"I oppose the reading of this Bill. I do so under Standing Order 44 (i) which clearly states: 'that the Bill as reported by the Select Committee be taken into consideration but any member may object to its being so taken into consideration if a copy of the report has not been available for the use of members for seven days . . .'. This report was sent to us very lately. Evidently we have not had sufficient time to go through it and send in our amendments. I think hon. Members will take this point into consideration and oppose the Bill being considered."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"I am not at all aware of the date on which it was despatched from the Legislative Council office or the date on which it reached the hon. Members. All that I know is that I had given notice on the 30th October."

The hon. the PRESIDENT:—"It seems to have been all right."

Mr. K. PRABHAKARAN TAMPAN:—"I have got a postal cover showing the date on which I received."

The hon. the PRESIDENT:—"Very good. The standing order says 'and such objection shall prevail unless the President in exercise of his powers to suspend this order allows the report to be taken into consideration.' I suspend the order and allow the Bill."

Mr. K. PRABHAKARAN TAMPAN:—"I hope the hon. Member for Government will not raise any technical objection with regard to the discussion of the amendments of which I have given notice. I hope all the amendments of the hon. Members have come in the revised agenda."

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"The difficulty that has been pointed out only strengthens me in moving for the adjournment of